

The legislation

The European Commission has published its Communication on the Data Protection review setting out a strategy on how to protect individuals' data in all policy areas, including law enforcement, while reducing red tape for business and guaranteeing the free circulation of data within the EU. This document along with the results of a public consultation (deadline was 15 January 2011), will be used as a basis for new proposed legislation in 2011.

The EPC's response is here:

www.epceurope.org/presscentre/archive/epc-response-to-the-eu-consultation-on-a-comprehensive-approach-to-data-protection-jan2011

The Commission lists the following as its key goals:

Strengthening individuals' rights so that the collection and use of personal data is limited to the minimum necessary. Individuals should also be clearly informed in a transparent way on how, why, by whom, and for how long their data is collected and used. People should be able to give their informed consent to the processing of their personal data, for example when surfing online, and should have the "right to be forgotten" when their data is no longer needed or they want their data to be deleted.

Meanwhile, the "Stockholm Process" which deals with every area of freedom from the rights of the child, right of free movement to protection of personal data and privacy, has been adopted for the period up to 2014. In the context of data protection, it reads: "To guarantee the protection of privacy, the Commission will be tasked with evaluating current data protection regulations to see where they need to be strengthened."

For full details, go to:

<http://www.regeringen.se/sb/d/1166/a/120682>

Background

The Data Protection Directive is a European Union directive which regulates the processing of personal data within the European Union. It is an important component of EU privacy and human rights law.

How is the media affected?

Media companies must comply with data protection in their day to day operations, including commercial services where the processing of personal data for advertising and direct marketing must comply with the law. Uniquely though media companies are also affected when it comes to the way in which journalists collect information about individuals which may later be published. Any review of the directive would be unlikely to improve things for the media which has experienced difficulties in practice with the current legislation. The directive does include a derogation "for journalistic purposes" but this has to be balanced with the rights to privacy making legal interpretation difficult. The EPC is asking the Commission that any review

includes collation of evidence from journalists and publishers in order to safeguard the freedom of expression. Commissioner Reding has confirmed that related case law is being assessed and has told the EPC that "derogations from the general rules on data protection may only be provided if the sole object of media activities is the disclosure to the public of information, opinions or ideas."

Data Privacy in electronic communications

In addition to the main Directive, as part of the Telecoms Package there is a law which tackles data privacy in electronic networks. This is pending final implementation by the Member States by May 2011. This law includes new rules about the use of cookies on websites requiring consent and enhanced notice. EPC has lobbied MEPs, Member States and the Commission to ensure cookies do not become the subject of prior consent by online users. We argue they do not contain personally identifiable data but more importantly actively enhance our readers' experiences when on our websites as they receive more relevant content and advertising as a result.

Data Privacy and Online Behavioural Targeting

The EPC has been leading the work of an industry roundtable bringing the media and advertising industry together to work with the Commission and to establish effective self-regulation in the area of online behavioural advertising (OBA). We have high level political support for our package as presented to the European Commission in December. We aim deliver effective consumer controls and stave off strict legal requirements on consent for the use of cookies for advertising purposes. The next phase involves consultations with consumer and privacy groups and the next roundtable meets on 9 March.

Industry best practice recommendation can be viewed at <http://www.easa-alliance.org/page.aspx/386>

Useful documents

http://ec.europa.eu/justice_home/fsj/privacy/
http://ec.europa.eu/justice_home/news/consulting_public/news_consulting_0003_en.htm

http://www.epceurope.org/issues/data_protection.shtm
http://ec.europa.eu/justice_home/fsj/privacy/workinggroup/index_en.htm

talk to use

For further information, contact:

Angela Mills Wade
EPC Executive Director, Tel: +44 1865 310 732;
angela.mills@wade.uk.net

or Heidi Lambert, Tel: +44 1245 476 265;
heidilambert@hlcltd.demon.co.uk

Alternatively visit
www.epceurope.org